

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ESTHER HOFFMAN, *et al.*,

Plaintiffs,

v.

TRANSWORLD SYSTEMS  
INCORPORATED, *et al.*,

Defendants.

CASE NO. C18-1132-JCC

ORDER

This matter comes before the Court on Plaintiffs' motion for reconsideration or clarification (Dkt. No. 33) of the Court's order (Dkt. No. 29) granting in part and denying in part Defendants Patenaude & Felix, APC ("P&F") and Matthew Cheung's ("Cheung") motion to dismiss (Dkt. No. 15) and Defendant Transworld Systems Inc.'s ("TSI") joinder to the motion to dismiss (Dkt. No. 17). Having thoroughly considered the motion and the relevant record, the Court finds oral argument unnecessary and hereby DENIES the motion for the reasons explained herein.

**I. BACKGROUND**

On November 2, 2018, the Court granted in part and denied in part Defendants' motion to dismiss Plaintiffs' complaint. (Dkt. No. 29.) Plaintiffs moved for reconsideration of the Court's November 2 order. (Dkt. No. 33.) The Court called for a limited response from Defendant TSI

and a reply from Plaintiffs, both of which were timely filed. (Dkt. Nos. 37, 39, 41.)

## **II. DISCUSSION**

### **A. Motion for Reconsideration Legal Standard**

“Motions for reconsideration are disfavored.” W.D. Wash. Local Civ. R. 7(h)(1). “The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.” *Id.* “A motion for reconsideration should not be used to ask the court to rethink what the court had already thought through—rightly or wrongly.” *Premier Harvest LLC v. AXIS Surplus Ins. Co.*, Case No. C17-0784-JCC, Dkt. No. 61 at 1 (W.D. Wash. 2017) (quoting *United States v. Rezzonico*, 32 F. Supp. 2d 1112, 1116 (D. Ariz. 1998)).

### **B. Dismissal of *Per Se* Consumer Protection Act Claims**

Plaintiffs argue that the Court erred when it dismissed their claims of *per se* violations of Washington’s Consumer Protection Act (“CPA”), Wash. Rev. Code § 19.86, predicated on their time-barred claims for violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692. (Dkt. No. 33 at 2.) Plaintiffs contend that time-barred FDCPA claims may still be a basis for *per se* CPA claims and that applying the FDCPA’s one-year statute of limitations to Plaintiffs’ *per se* CPA claims would improperly preempt the CPA. (*Id.* at 2–6.) Plaintiffs again ask the Court to reject the reasoning of prior decisions of other courts in this district that concluded that time-barred claims under other statutes cannot be a basis for a *per se* CPA claim. (*Id.*) Plaintiffs’ arguments ask the Court to rethink matters it has already considered, and Plaintiffs have not presented new facts or relevant legal authority meriting reconsideration. (*See id.*; *cf.* Dkt. Nos. 20 at 18–19, 22 at 16–18); W.D. Wash. Local Civ. R. 7(h)(1); *Premier Harvest LLC*, Case No. C17-0784-JCC, Dkt. No. 61 at 1. Therefore, Plaintiffs’ motion for reconsideration is DENIED on this ground.

//

//

1           **C.       Dismissal of 15 U.S.C. § 1692e(5) and Wash. Rev. Code §§ 19.16.250(16), (21)**  
2           **Claims**

3           Plaintiffs next argue that the Court erred in dismissing their claims for violation of the  
4 Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692e(5) and Washington’s  
5 Collection Agencies Act (“CAA”), Wash. Rev. Code §§ 19.16.250(16), (21). (Dkt. No. 33 at 6.)  
6 In arguing that the Court erred in dismissing their FDCPA claim, Plaintiffs do not address the  
7 Seventh Circuit decision discussed in the Court’s November 2 order. (*See id.*; *cf.* Dkt. No. 29 at  
8 14–15.) Further, the cases Plaintiffs cite in support of their argument do not address whether the  
9 filing of a lawsuit constitutes a threat to take action that cannot legally be taken in violation of  
10 the FDCPA. (*See* Dkt. No. 1-4 at 26); *cf. Sprinkle v. SB&C Ltd.*, 472 F. Supp. 2d 1235, 1245–48  
11 (W.D. Wash. 2006) (holding that defendants violated the FDCPA when they continued to  
12 advance garnishment proceedings in state court without filing required affidavit); *Marchant v.*  
13 *U.S. Collections W., Inc.*, 12 F. Supp. 2d 1001, 1004–06 (D. Ariz. 1998) (holding that non-  
14 lawyer’s completion and filing of an application for a writ of garnishment was unauthorized  
15 practice of law and constituted a threat to take action that could not be legally taken in violation  
16 of the FDCPA); *Currier v. First Resolution Inv. Corp.*, 762 F.3d 529, 535 (6th Cir. 2014) (“The  
17 alleged conduct of filing and maintaining an invalid lien for a month can also fairly be  
18 characterized as a threat to take an action that cannot legally be taken within the meaning of [the  
19 FDCPA].”).

20           Plaintiffs rely on the same arguments and cases in support of their contention that the  
21 Court erred in dismissing their claims under the CAA. (*See* Dkt. No. 33 at 6.) Thus, Plaintiffs  
22 have neither shown that the Court committed manifest error nor presented new facts or relevant  
23 legal authority meriting reconsideration. W.D. Wash. Local Civ. R. 7(h)(1); *Premier Harvest*  
24 *LLC*, Case No. C17-0784-JCC, Dkt. No. 61 at 1. Therefore, Plaintiffs’ motion for  
25 reconsideration is DENIED on this ground.

26           //

1           **D.     Private CPA Claim Against Defendant TSI**

2           Plaintiffs request clarification as to whether the Court intended to dismiss their private  
3 CPA claims against Defendant TSI, and if so, the basis for the dismissal. (Dkt. No. 33 at 6–7.)  
4 The Court will construe Plaintiffs’ request as a motion for reconsideration, as they have cited  
5 only Local Civil Rule 7(h) as a basis for their motion. (*Id.* at 2.) The Court did not manifestly err  
6 in dismissing Plaintiffs’ private CPA claims against Defendant TSI, and Plaintiffs have not  
7 presented new facts or relevant legal authority meriting reconsideration. W.D. Wash. Local Civ.  
8 R. 7(h)(1); *Premier Harvest LLC*, Case No. C17-0784-JCC, Dkt. No. 61 at 1. Therefore,  
9 Plaintiffs’ motion for reconsideration is DENIED on this ground.

10       **III.    CONCLUSION**

11           For the foregoing reasons, Plaintiffs’ motion for reconsideration (Dkt. No. 33) is  
12 DENIED.

13           DATED this 4th day of January 2019.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE